

***United States Court of Appeals
for the Second Circuit***



**BRIEF FOR
APPELLANT**

74-1575

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

AUG 2 1974

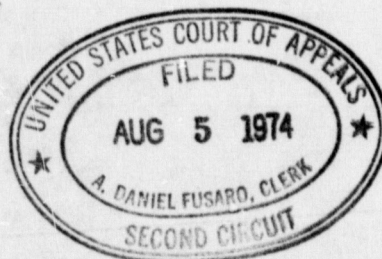
DOCKET NO. 74-1575

*
* MELVIN SANDERS, *
* Appellant, *
* V., *
* UNITED STATES OF AMERICA, *
* Appellee. *

B
P/S

TRAVERSE BRIEF FOR THE APPELLANT

MELVIN SANDERS, PRO-SE
P.O. Box 1000, Lewisburg,
Pennsylvania, 17837



ARGUMENT
AND TRAVERSE

POINT # 1
& POINT # 2

THE DISTRICT COURT ERRED IN DENYING THE APPELLANT'S MOTION TO VACATE SENTENCE WITHOUT HOLDING AN EVIDENTARY HEARING FOR THE FOLLOWING REASONS:

1. THE Appellant raised new issues, as the Appellee admitted six (6) months after the trial of the Appellant that entrapment was used as a vehicle to get the governments chief witness to testify against the Petitioner (Martha Pinkleton), and recommended that the indictment against Chief Government Witness Martha Pinkleton be dropped, and in Exhibit A (Transcript of Nov. 2, 1972 72-CR-500), the Appellee's own attorney states as follows:

"MR. SHERIDAN: She cooperated. She made the case against Sanders. In addition, the testimony indicates, we do believe, the 29-year-old woman, divorced, two children, on welfare, induced, perhaps maybe a valid entrapment, to participate in this thing. We are not sure we have a strong case, and in the interest of justice move for a dismissal." (Emphasis added)

NOW if the government's own agent provacteur, the person that caused the crime to happen was the victim of entrapment, so was every act after that falls under the doctrine known as "Fruit of the Poisonous Tree", (See: Silverthorne Lumber Co. v. United States, 251 U.S. 385, 392, 40 S.Ct. 182, 183, 64 L.Ed. 319, also Nardone v. U.S., 308 U.S. 338, 60 S.Ct. 266, 84 L.Ed. 307; Wong Sun v. United States, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441.) thus, if the Appellant had been granted an ev-

identary hearing, he would have been able to prove that Martha Pinkleton, the Appellee's chief witness against the Appellant did receive the dismissal of her case simply for testifying against the Appellant both at his Trial and at the Grand Jury that brought down the original Indictment, in direct violation of Giglio v. U.S. 405, U.S. 150 (1972) Supreme Court.

THE Appellant was not at the hearing for "Request and Authorization to Dismiss Criminal Case" on November 2, 1972, but it is extremely interesting to note, and also prejudicial, that the REQUEST AND AUTHORIZATION TO DISMISS CRIMINAL CASE, was signed on SEPTEMBER 14, 1972, a full FOURTY NINE DAYS before the case was dismissed, yet the Appellant did not learn of this defense until March 1973, now why did the government take so long, and why did the government not bring out the truth about her criminal record, when on Exhibit C, (transcript , line 10) the Governments witness states as follows to this question:

Q Have you ever been convicted of a crime?
A Yes.

NOW on the Request and Authorization to Dismiss Criminal Case, Exhibit B, Item 4 the Government lies to Federal District Judge Weinstein, when they state that she has not been convicted, and she has not prior criminal record.

NOW if a full evidentiary hearing had been held, the Appellant could have found out why the government had lied to Judge Weinstein about Martha Pinkletons criminal record, and why they should have been so interested in dropping the charges against her, when


she in fact pleaded guilty when she testified at the Grand Jury, and at the trial of the Appellant. The Honorable Court should consider that would Martha Pinkleton have testified against her self at the Grand Jury, at the Trial of the Appellant without some guarantee by some member of the prosecution, that the charges pending against her in the same indictment would be dismissed, plus the fact that Martha Pinkleton was on probation at the time of her ~~arrest~~ on a gun charge.

SUCH behavior on the part of the prosecution could only come from promissing Martha Pinkleton, that the charges against her would be dismissed, and an Evidentary Hearing would have proved this.

C O N C L U S I O N


FOR any and or all the reasons set forth in the foregoing original brief, and this Traverse Brief, the sentence of the Appellant must be vacated forthwith, or in the alternative that the Honorable Court cause to be held a full evidentiary hearing on Appellant's original contentions and original petition, and remand this case and cause to the District Court to hold the aforerequested evidentiary hearing, and any other relief that this Honorable Court might deem it in its power to grant.

Respectfully Submitted


Melvin Sanders,

Sworn to this 26th day of July, 1974

right hand thumb print
in lieu of notary not
available this date

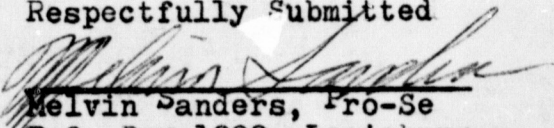


PROOF OF SERVICE AND CERTIFICATE OF MAILING BY CERTIFIED MAIL

COMES now MELVIN SANDERS, the Appellllant in the foregoing Traverse Brief, and he states and swears under oath that he has caused copies of this brief to be mailed certified mail, return receipt requested to the following, postage prepaid.

six copies	Clerk, Second Circuit Court of Appeals, U.S. Courthouse, Foley Square, N.Y. N.Y. 10007
one copy	U.S. Atterney, E.D. N.Y. 225 Cadman Plaza East, Brooklyn, New Ygrk, 11201

Respectfully Submitted


Melvin Sanders, Pro-Se
P.O. Box 1000, Lewisburg,
Penna., 17837



REQUEST AND AUTHORIZATION TO DISMISS CRIMINAL CASE

To: <input checked="" type="checkbox"/> Criminal Division <input type="checkbox"/> Tax Division		Area (District) Eastern District of New York	
United States of America vs. RONNIE ROBINSON, HERMAN PILLIYAW, MELVIN SANDERS and MARTHA PINKELTON, Defendants.		Criminal Docket No. 72 CR 500	U. S. Attorney's ref. EJB:EAM:ing P. 722, 110
		Violation(s) 18 USC, 8472, 473, and 371	Dept. of Justice ref.
1. (Check one) <input checked="" type="checkbox"/> Indictment <input type="checkbox"/> Information		Number of counts Three (3)	Date filed May 5, 1972

2. Dismissal recommended as to (Specify defendant(s))

MARTHA PINKELTON

3. Present status of case:

Awaiting trial as to the defendant Martha Pinkelton

65-52-1410
DEPT. OF JUSTICE

4. Pertinent facts of case: (Include data on other pending State or Federal indictments or Informations, and summary of prior criminal record, as above 26 1972)

None

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CRIMINAL DIVISION
Narcotic and Dangerous Drug Section
CRIMINAL-GEN. CRIME SEC.

5. Reasons for dismissal in detail: (If necessary, attach separate sheet)

Martha Pinkelton, as well as her three co-defendants, Ronnie Robinson, Herman Pilliyaw and Melvin Sanders, were indicted on May 5, 1972 for possessing, concealing and transferring approximately \$250,000.00 worth of counterfeit United States Federal Reserve Notes. Miss Pinkelton, after her arrest, testified before the grand jury and subsequently at trial against Melvin Sanders, whom she identified as the source of the counterfeit notes. Melvin Sanders is a prior convicted felon for counterfeiting and happens to be as a result of investigation by the Secret Service, a major counterfeiter

(SEE ATTACHED SHEET)

5. Recommendation, if any, of referral or investigation agency:
Special Agents of U.S. Secret Service consulted this office for
the dismissal of the indictment against Martha Pickelson.

DEPARTMENT		APPROVAL FOR	
Approved (Asst. Atty. Gen.) - -		Approval recommended:	
Criminal or Tax Division		Asst. Handling case.	
HENRY E. PETERSEN		()	
By (Chief of Section)		Date	
CARL W. BELCHER		October 14, 1973	
Name of Section	Case	Check one:	
General Crimes		<input type="checkbox"/> Approval	<input type="checkbox"/> Approval recommended

See instructions regarding submission to the Director, 5 was entered in Journal, Title 2, p. 10, or Title 3, p. 5 and 6. Submission to the Director should follow the instructions. One copy will be returned upon return.

Exhibit-B

on the east coast of the United States. At the time of Mr. Sanders arrest, he was on parole from a prior counterfeiting conviction. As a result of Martha Pinkelton's cooperation, Melvin Sanders was convicted and sentenced to seven and one-half years imprisonment.

Co-defendants Herman Fillyaw and Ronnie Robinson subsequently pleaded guilty. Without Martha Pinkelton's cooperation, the government would have had no case against Melvin Sanders, who happened to be the source of the bills. Additionally, by her cooperation, it forced the remaining co-defendants to plead guilty. Ronnie Robinson has been sentenced and Herman Fillyaw is awaiting sentence.

It should be noted that Miss Pinkelton was placed in protective custody by United States Marshals as a result of various threats she had received. Secret Service investigation revealed that various members of Organized Crime have "placed a contract" on Miss Pinkelton because of her cooperation. Despite these threats, she testified fully with the Government.

Miss Pinkelton's role in this crime was that of courier. She was ordered by Melvin Sanders, Herman Fillyaw and Ronnie Robinson to take the counterfeit money and transfer it to undercover secret service agents. After her arrest, she immediately cooperated with the Secret Service.

It is felt by this office as well as the Secret Service that Martha Pinkelton's cooperation has been exceptional, especially, in view of the danger to her life. There was no corroboration to Miss Pinkelton's testimony against Melvin Sanders and yet the jury believed her testimony.

- 3 -

In view of her exceptional cooperation, this office, as well as the Secret Service, recommends dismissal of the indictment against her in the interests of justice. Incidentally, there is nothing to indicate her involvement in this activity prior to this event.

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Pinkelton - cross

1
2 tried to earn any additional money --3 MR. MOORE: Objection. I don't see
4 the relevancy --

5 THE COURT: I will permit it.

6 A No.

7 Q You manage on the sums you get from
8 welfare?

9 A Yes.

10 Q Have you ever been convicted of a crime?11 A Yes.

12 Q When was that?

13 A 1972 -- I'm sorry, 1971.

14 Q Last year?

15 A Yes.

16 Q What was the crime?

17 A Possession of a dangerous weapon.

18 Q What?

19 A Possession of a dangerous weapon.

20 Q A knife or gun?

21 A A gun.

22 Q Is that the only conviction you have?

23 A Yes.

24 Q Are there any charges pending over you now?

25 A No, just this.

EXHIBIT - EC

1
2 testimony. It was approved in Washington, and
3 a very brief capsule of what our reasons are.

4 MR. ROBERTON: I object to any capsuled
5 reasons. It's irrelevant. If your Honor wants
6 to hear that at a hearing --

7 MR. SHERIDAN: You can object to it.

8 THE COURT: I think this record may go
9 up to the Court of Appeals.

10 MR. SHERIDAN: She cooperated. She made
11 the case against Sanders. In addition, the
12 testimony indicates, we do believe, the 29-year-
13 old woman, divorced, two children, on welfare,
14 induced, perhaps maybe a valid entrapment, to
15 participate in this thing. We are not sure
16 we have that strong a case, and in the interest
17 of justice move for a dismissal.

18 MR. ROBERTON: You brought up a very
19 interesting --

20 MR. SHERIDAN: It's not relevant to
21 Sanders.

22 MR. ROBERTON: The government knew all
23 along that based on Miss Pinkelton's testimony
24 on this trial, she had a very strong entrapment
25 offense against her. If they attempt to prose-

Exhibit A